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HOUSE BILL 51

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Peter Wirth

FOR THE FUNDING FORMULA STUDY TASK FORCE

AN ACT

RELATING TO TAXATION; DISTRIBUTING A PORTION OF CORPORATE
INCOME TAX REVENUE TO THE PUBLIC SCHOOL FUND; AMENDING THE
CORPORATE INCOME AND FRANCHISE TAX ACT TO MANDATE COMBINED
REPORTING; REPEALING A SECTION OF THE NMSA 1978 PERTAINING TO
CONSOLIDATED RETURNS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. ~~[NEW MATERIAL]~~ DISTRIBUTION--PUBLIC SCHOOL
FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978
shall be made to the public school fund in an amount equal to
twenty percent of the net receipts attributable to the
corporate income tax.

Section 2. Section 7-2A-8.3 NMSA 1978 (being Laws 1983,
Chapter 213, Section 12, as amended by Laws 1993, Chapter 307,
Section 4 and also by Laws 1993, Chapter 309, Section 2) is

.170616.1

underscored material = new
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1 amended to read:

2 "7-2A-8.3. COMBINED RETURNS.--

3 A. A unitary corporation that is subject to
4 taxation under the Corporate Income and Franchise Tax Act [~~and~~
5 ~~that has not previously filed a combined return pursuant to~~
6 ~~this section or a consolidated return pursuant to Section~~
7 ~~7-2A-8.4 NMSA 1978 may elect to~~] shall file a combined return
8 with other unitary corporations as though the entire combined
9 net income were that of one corporation. The return filed
10 under this method of reporting shall include the net income of
11 all the unitary corporations. Transactions among the unitary
12 corporations may be eliminated by applying the appropriate
13 rules for reporting income for a consolidated federal income
14 tax return. [~~Any corporation that has filed an income tax~~
15 ~~return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978~~
16 ~~shall not file pursuant to this section unless the secretary~~
17 ~~gives prior permission to file on a combined return basis.]~~

18 B. Once corporations have reported net income
19 through a combined return for any taxable year, they shall file
20 combined returns for subsequent taxable years, so long as they
21 remain unitary corporations, [~~unless the corporations elect to~~
22 ~~file pursuant to Section 7-2A-8.4 NMSA 1978 or~~] unless the
23 secretary grants prior permission for one or more of the
24 corporations to file individually.

25 [~~C. For taxable years beginning on or after January~~

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1 ~~1, 1993, no unitary corporation once included in a combined~~
2 ~~return may elect, or be granted permission by the secretary,~~
3 ~~for any subsequent taxable year to separately account pursuant~~
4 ~~to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.]"~~

5 Section 3. REPEAL.--Section 7-2A-8.4 NMSA 1978 (being
6 Laws 1983, Chapter 213, Section 13, as amended) is repealed.

7 Section 4. APPLICABILITY.--The provisions of this act
8 apply to taxable years beginning on or after January 1, 2008.

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